

## REMARKS

### Canceled Claim

Applicant cancels claim 45 without prejudice.

### Claim Amendments

Applicant amends claims 41 through 43 and 46 through 48, to clarify the language of the claims in light of the Examiner's rejections to the claims under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

Claim 41, as amended, recites:

A method of providing an improved audio reproduction derived from an analog recording, the method comprising:

**digitizing a wideband playback signal from an analog recording containing wow/flutter;**

deriving, without use of a prescribed tone or **time-code previously applied and intended to be indicative of timing**, a reference signal from **within the digitized wideband playback signal**, the reference signal being **an extraneous artifact within the recording**;

generating a modulated carrier by **at least one of stabilizing, idealizing, and demodulating the reference signal**;

deducing deviations between the modulated carrier and a **high-precision clock signal or sampling rate**; and

adjusting timing and pitch in the digitized wideband playback signal in response to the deduced deviations, wherein such adjusting comprises establishing a change in a period of the reference signal, **then conforming the timing and pitch of the digitized wideband playback signal to the modulated carrier**

thereby producing a wideband playback signal substantially corrected for distortion corresponding to said wow/flutter. [Emphasis added]

Claim 42, as amended, recites:

The method of claim 41, wherein the reference signal is generated by identifying a reference sound entity which can be derived from the analog **recording**; and wherein the modulated carrier is generated from a known or preestablished pattern within the reference sound entity. [Emphasis added]

Claim 43, as amended, recites:

The method of claim 41, further comprising: determining a set of data reflecting **at least one** instantaneous deviation between a nominal intermediate frequency and the reference signal; and generating a modulated carrier that reflects the **at least one instantaneous deviation**. [Emphasis added]

Claim 46, as amended, recites:

The method of claim 41, wherein the reference signal is derived from a bias signal present in the analog **recording**. [Emphasis added]

Claim 47, as amended, recites:

The method of claim 41, further comprising:

extracting a reference sound element which can be derived from the analog **recording**;

determining a deviation between a high-precision clock signal **or sampling rate** and a pre-established sound pattern for the reference sound element;  
and

adjusting sound frequencies and timing in the digital domain in accordance with the deviation. [Emphasis added]

Claim 48, as amended, recites:

The method of claim 41, further comprising:

extracting an existing carrier which can be derived from the analog recording;

determining a deviation between a high-precision clock signal or sampling rate and a corresponding representation of the carrier within the analog recording; and

adjusting the digitized wideband playback signal according to the deviation. [Emphasis added]

The amendments to the claims are made to clarify wording that the Examiner deemed to be indefinite, and other wording that Applicant, upon further review of the claims, concluded could be more clearly recited. The amendments are supported at least at paragraphs [0015] through [0030] of the specification as published, Figs. 1 through 3, and the claims as filed, and do not recite new matter.

Additionally, Applicant amends claim 51 in light of the Examiner's rejection under 35 U.S.C. § 101, wherein the Examiner stated that interpreting claim 51, in particular the words "electronically readable storage medium" in light of the specification would result in the claim being drawn to "a transitory signal," which the case *In Re Nuijten* held to be excluded from patent eligible subject matter under 35 U.S.C. § 101.

Claim 51, as amended, recites:

An electronically readable storage medium, other than a transitory signal, containing data representing digital audio information which has been generated by the method of claim 41. [Emphasis added]

## ARGUMENTS

### Rejections Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph

The Examiner rejects claims 41 through 43 and 45 through 48 as being indefinite.

With respect to claim 41, the Examiner states that “providing a digitized wideband playback signal” is indefinite because it is not clear where the signal is being provided to. Claim 41, as amended, no longer recites “providing a digitized wideband playback signal.” Claim 41 now recites, in pertinent part, “**digitizing a wideband playback signal...**” Additionally, the Examiner deems the wording: “thereby separately adjusting the synchronization before and after the change”, and “the recording which occurs after the change” to be indefinite. This wording is now removed from the claim. Accordingly, since the language that the Examiner takes issue with has been corrected and/or removed, Applicant submits that claim 41, as amended, is allowable.

Claim 42 has been amended to be consistent with claim 41, from which it depends.

With regard to claim 43, the Examiner states that the limitation “the instantaneous deviation” lacks antecedent basis. Applicant amends claim to recite, in pertinent part: “**at least one** instantaneous deviation between a nominal intermediate frequency and the reference signal; and generating a modulated carrier that reflects the **at least one instantaneous deviation.**” Applicant submits that this amendment overcomes the Examiner’s rejection to claim 43.

Applicant has concluded that the subject matter sought to be claimed could be more clearly expressed by canceling claim 45 and amending claims 46 through 48 to depend from claim 41. Applicant has amended the claims accordingly. Given that claim 45 is now canceled, the Examiner’s rejection to claim 45 is now moot.

The Examiner does not present a rejection to any of claims 46 through 48, other than to state that language deemed indefinite in an independent claim is incorporated into claims that depend from it. Previously, claims 46 through 48 depended from claim 45. The claims have been amended to depend from claim 41, which Applicant has amended for definiteness and clarity, as discussed above. Additionally, in an earnest effort to clearly express the subject matter sought to be claimed, Applicant has amended claims 46 through 48 to remove and/or clarify wording that Applicant, upon further consideration, concluded was unclear.

### Rejections Under 35 U.S.C. § 101

The Examiner rejects claims 51 through 53 as reciting patent ineligible subject matter under 35 U.S.C. § 101. Specifically, the Examiner states that the recitation

of “electronically readable storage medium” in claim 51 can be the Internet, according to page 7 of the specification for the present application. Citing *In Re Nuijten*, the Examiner states that claim 51 is drawn to patent ineligible subject matter, namely, a transitory signal. As discussed previously, Applicant amends claim 51 to recite, in pertinent part: “An electronically readable storage medium, **other than a transitory signal...**” Applicant submits that this amendment overcomes the Examiner’s rejection to claim 51.

Regarding claims 52 and 53, Applicant submits that these claims do not recite patent ineligible subject matter, not only because they depend from amended claim 51, but also because they are specifically drawn to “**an optical disk, a memory card, or a digital audio tape cassette**” as recited in claim 52. Applicant points out that claim 53 depends from claim 52.

## CONCLUSION

Applicant believes this to be a complete response to the Office Action of February 26, 2010. For the reasons presented in this response, the Applicant asserts that the claims as shown in the present Listing of the Claims are each patentable. Applicant’s undersigned attorneys respectfully request that the Examiner contact them with feedback on whether the pending claims are now in allowable form.

Respectfully submitted:

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